9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0438]

RIN 1625-AA00

Safety Zones; Marine Events held in the Sector Long Island Sound Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing thirteen safety zones for fireworks displays within the Coast Guard Sector Long Island Sound (LIS) Captain of the Port (COTP) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these safety zones is prohibited unless authorized by COTP Sector Long Island Sound.

DATES: This rule is effective without actual notice from 12:01 a.m. on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 10:30 p.m. on August 1, 2015. For the purposes of enforcement, actual notice will be used from the date the rule

was signed, June 17, 2015, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0438]. To view documents mentioned in this preamble as being available in the docket, go to http://www.regulations.gov, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Petty Officer Ian Fallon, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468-4565, e-mail Ian.M.Fallon@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port

DHS Department of Homeland Security

FR Federal Register

NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

This rulemaking establishes thirteen safety zones for thirteen fireworks displays. Each event and its corresponding regulatory history are discussed below.

Barnum Festival, LLC (fireworks): A safety zone was established in 2014 for the Barnum Festival, LLC fireworks display by enforcing 33 CFR 165.151, Table 1, 6.1. This event has been included in this rule due to deviation from the cite date and location.

Salute to Veterans (fireworks): A safety zone was established in 2014 for the Salute to Veterans fireworks display by enforcing 33 CFR 165.151, Table 1, 6.4. This event has been included in this rule due to deviation from the cite date and location.

City of Stamford (fireworks): A safety zone was established in 2014 for the City of Stamford fireworks display by enforcing 33 CFR 165.151, Table 1, 7.12. This event has been included in this rule due to deviation from the cite date.

Freeport Chamber of Commerce (fireworks): A safety zone was established in 2014 for Freeport Chamber of Commerce fireworks display when the Coast Guard issued a temporary rule entitled, "Safety Zone; Freeport Chamber of Commerce Fireworks Display;

South Bay; Freeport, NY". This rulemaking was published on June 27, 2014 in the Federal Register (79 FR 36412).

City of Norwich (fireworks): A safety zone was established in 2014 for the City of Norwich fireworks display by enforcing 33 CFR 165.151, Table 1, 7.11. This event has been included in this rule due to deviation from the cite date and location.

Go 4th Connetquot (fireworks): This event was previously named Connetquot River Summer Fireworks. A safety zone was established in 2014 for the Connetquot River Summer Fireworks display by enforcing 33 CFR 165.151, Table 1, 7.42. This event has been included in this rule due to deviation from the cite name and location.

Madison Fireworks Organization (fireworks): A safety zone was established in 2014 for the Madison Fireworks Organization fireworks display by enforcing 33 CFR 165.151, Table 1, 7.38.

This event has been included in this rule due from the cite date and location.

City of Middletown (fireworks): A safety zone was established in 2014 for the City of Middletown fireworks display by enforcing 33 CFR 165.151, Table 1, 7.9. This event has been included in this rule due to deviation from the cite date and location.

Fairfield Independence Day Celebration (fireworks): A safety zone was established in 2014 for the Fairfield Independence Day

Celebration fireworks display by enforcing 33 CFR 165.151, Table 1, 7.16. This event has been included in this rule due to deviation from the cite date and location.

City of West Haven: A safety zone was established in 2014 for the City of West Haven Fireworks display by enforcing 33 CFR 165.151, Table 1, 7.13. This event has been included in this rule due to deviation from the cite location.

Village of Port Jefferson Independence Day Celebration (fireworks): This event was previously named Village of Port Jefferson Fourth of July Celebration Fireworks. A safety zone was established in 2014 for the Village of Port Jefferson Fourth of July Celebration Fireworks display by enforcing 33 CFR 165.151, Table 1, 7.25. This event has been included in this rule due to deviation from the cite name and location.

Shelter Island (fireworks): A safety zone was established in 2014 for the Shelter Island fireworks display by enforcing 33 CFR 165.151, Table 1, 7.30. This event has been included in this rule due to deviation from the cite location.

Sebonack Golf Club (fireworks): This event was previously named National Golf Links Fireworks. A safety zone was established in 2014 for the National Golf Links Fireworks display by enforcing 33 CFR 165.151, Table 1, 7.44. This event has been included in this rule due to deviation from the cite name, date and location.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because doing so would be impracticable. There is insufficient time to publish a NPRM and solicit comments from the public before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5 and Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory safety zones.

As discussed in the REGULATORY HISTORY AND INFORMATION section, thirteen fireworks displays will take place in the Coast Guard Sector LIS COTP Zone between June 26, 2015 and August 1, 2015. The COTP Long Island Sound has determined that thirteen safety zones are necessary to provide for the safety of life on navigable waterways during those events.

Barnum Festival, LLC fireworks display will be held on Bridgeport Harbor, Bridgeport CT.

Salute to Veterans fireworks display will be held on Reynolds Channel off Hempstead, NY.

City of Stamford fireworks display will be held on Fisher's Westcott Cove, Stamford, CT.

Freeport Chamber of Commerce fireworks display will be a land launch near Guy Lombardo Marina, Freeport, NY.

City of Norwich fireworks display will be held on the Thames River, Norwich, CT.

Go $4^{\rm th}$ Connetquot fireworks display will be held on Great South Bay off Snapper Inn, Oakdale, NY.

Madison Fireworks Organization fireworks will be held on Long Island Sound off Madison Beach, Madison, CT.

City of Middletown fireworks display will be held on the Connecticut River, Middletown Harbor, Middletown, CT.

Fairfield Independence Day Celebration fireworks display will be held on Long Island Sound off Fairfield, CT.

City of West Haven fireworks display will be held on New Haven Harbor off Bradley Point, West Haven, CT.

Village of Port Jefferson Independence Day Celebration will be held on Port Jefferson Harbor, Port Jefferson, NY.

Shelter Island fireworks display will be held on Gardiner Bay, Shelter Island, NY.

Sebonack Golf Club fireworks display will be held on Peconic Bay off Southampton, NY.

The fireworks displays listed above will launch pyrotechnics from either a barge on a waterway or a landsite near a waterway. A regulated area, specifically a safety zone, is required for each of these fireworks displays to protect both spectators and participants from the safety hazards created by the fireworks displays, including unexpected pyrotechnics detonation and burning debris.

C. Discussion of the Final Rule

This rule establishes thirteen safety zones for thirteen fireworks displays. The location of these safety zones are as follows:

Fireworks Dis	splavs	Safetv	' Zones
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	Barnum Festival, LLC Fireworks	Location: All waters of Bridgeport Harbor, Bridgeport CT within 800 feet of the land launch site located in approximate position 41°09'34"N, 073°11'18"W (NAD 83).
2	Salute to Veterans	Location: All waters of Reynolds

	Fireworks	Channel off Hempstead, NY within 600 feet of the fireworks barge located in approximate position 40°35'36.87"N, 073°35'20.72"W (NAD 83).
3	City of Stamford Fireworks	Location: All waters of the Fisher's Westcott cove, Stamford, CT within 800 feet of the fireworks barge in approximate position 41°02'09.56"N, 072°30'57.76"W (NAD 83).
4	Freeport Chamber of Commerce Fireworks	Location: All waters of Guy Lombardo Marina, Freeport, NY within 300 feet of the land launch site located in approximate position 40°37′27.27″N, 073°34′34.64″W (NAD 83).
5	City of Norwich Fireworks	Location: All waters of the Thames River, Norwich, CT in approximate positions, 41°31'14.64"N, 072°04'43.60"W (NAD 83).
6	Go 4 th Connetquot Fireworks	Location: All waters of Great South Bay within 600 feet of the fireworks barge at approximate position, 40°43′30.03″N; 073°08′40.25″W (NAD 83).
7	Madison Fireworks Organization Fireworks	Location: All waters of Long Island Sound off Madison Beach, Madison, CT within 800 feet of the fireworks barge located in approximate position 41°16′09.04″N, 072°36′18.30″W (NAD 83).
8	City of Middletown Fireworks	Location: Waters of the Connecticut River, Middletown Harbor, Middletown, CT within 600 feet of the fireworks barge in approximate position, 41°33'43"N, 072°38'32"W (NAD 83).
9	Fairfield Independence Day Celebration Fireworks	Location: All waters of Long Island Sound, Fairfield, CT within 800 feet of the fireworks barge at approximate position, 41°08'16.92"N; 073°14'01.02"W (NAD 83).
10	City of West Haven Fireworks	Location: All waters of New Haven Harbor off Bradley Point, West Haven, CT within 800 feet of the

		fireworks barge at approximate position, 41°15'07"N; 072°57'25"W (NAD 83).
11	Village of Port Jefferson Independence Day Celebration	Location: All waters of Port Jefferson Harbor within 500 feet of the land launch at approximate position, 40°57′53.189″N; 073°03′09.72″W (NAD 83).
12	Shelter Island Fireworks	Location: All waters of Gardiner's Bay, Shelter Island, NY in approximate position, 41°04'27.60"N, 072°22'13.50"W (NAD 83).
13	Sebonack Golf Club Fireworks	Location: All waters of Peconic Bay, Southampton, NY within 600 feet of the fireworks barge at approximate position, 40°54′49.92″N; 072°27′39.28″W (NAD 83).

This rule prevents vessels from entering, transiting, mooring, or anchoring within areas specifically designated as safety zones and restricts vessel movement around the locations of the marine events to reduce the safety risks associated with them during the periods of enforcement unless authorized by the COTP or designated representative.

Consistent with 33 CFR 165.7, the Coast Guard will notify the public and local mariners of this safety zone through appropriate means, which may include, but are not limited to, publication in the Federal Register, the Local Notice to Mariners, and Broadcast Notice to Mariners. The specific dates, including rain dates, for the events are listed in the regulatory text.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: the enforcement of these safety zones will be relatively short in duration. Additionally, persons or vessels desiring to enter a safety zone may do so with permission from the COTP Sector Long Island Sound or a designated representative. Furthermore, these safety zones are designed in a way to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterways not designated as a safety zone. Finally, to increase public awareness of these safety zones, the Coast Guard will notify the public of the enforcement of this rule via appropriate

means, such as Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor, or moor within a safety zone during the periods of enforcement, from June 26, 2015 to August 1, 2015. However, this temporary final rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the REGULATORY PLANNING AND REVIEW section. Additionally, before the effective period, public notifications will be made to local mariners through appropriate means, which may include but are not

limited to, the Local Notice to Mariners as well as Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Public Law 104-121), we want to
assist small entities in understanding this proposed rule. If the
rule would affect your small business, organization, or
governmental jurisdiction and you have questions concerning its
provisions or options for compliance, please contact the person
listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with,

Federal regulations to the Small Business and Agriculture

Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these

actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045,

Protection of Children from Environmental Health Risks and Safety
Risks. This rule is not an economically significant rule and does
not create an environmental risk to health or risk to safety that
may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This temporary rule involves the establishment of safety zones. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T01-0438 to read as follows:

§ 165.T01-0438 Safety Zones; Fireworks Displays in Captain of the Port Long Island Sound Zone.

- (a) <u>Regulations</u>. The general regulations contained in § 165.23 as well as the following regulations apply to the events listed in the TABLE to § 165.T01-0438.
- (b) Enforcement period. This rule will be enforced on the dates and times listed for each event in TABLE to § 165.T01-0438. If the event is delayed by inclement weather, the safety zone will be enforced on the rain date indicated in TABLE to § 165.T01-0438.
- (c) <u>Definitions</u>. The following definitions apply to this section: A "designated representative" is any commissioned,

warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. An "official patrol vessel" may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

- (d) Operations. (1) Vessels desiring to enter or operate within a safety zone should contact the COTP or the designated representative via VHF channel 16 or by telephone at (203) 468-4401 to obtain permission to do so. Vessels given permission to enter or operate in a safety zone must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.
- (2) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. While members of the Coast Guard Auxiliary will not serve as the designated representative, they may be present to inform vessel operators of this regulation.
- (e) <u>Compliance</u>. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

TABLE to §165.T01-0438

		Fireworks Events
	Barnum Festival, LLC Fireworks	 Date: June 26, 2015 Rain Date: June 28, 2015 Time: 8:40 p.m. to 10:30 p.m. Location: All waters of Bridgeport Harbor, Bridgeport CT within 800 feet of the land launch site located in approximate position 41°09'34"N, 073°11'18"W (NAD 83).
7	Salute to Veterans Fireworks	 Date: June 27, 2015 Rain Date: June 28, 2015 Time: 9:00 p.m. to 10:45 p.m. Location: All waters of Reynolds Channel off Hempstead, NY within 600 feet of the fireworks barge located in approximate position 40°35′36.87″N, 073°35′20.72″W (NAD 83).
	City of Stamford Fireworks	 Date: July 2, 2015 Rain Date: July 3, 2015 Time: 8:30 p.m. to 10:30 p.m. Location: All waters of the Fisher's Westcott cove, Stamford, CT within 800 feet of the fireworks barge in approximate position 41°02′09.56″N, 072°30′57.76″W (NAD 83).
(Freeport Chamber of Commerce Fireworks	 Date: July 2, 2015 Rain Date: July 9, 2015 Time: 8:45 p.m. to 10:00 p.m. Location: All waters of Guy Lombardo Marina, Freeport, NY within 300 feet of the land launch site located in approximate position 40°37′27.27″N, 073°34′34.64″W (NAD 83).
	City of Norwich Fireworks	 Date: July 2, 2015 Rain Date: July 3, 2015 Time: 9:00 p.m. to 11:00 p.m. Location: All waters of the Thames River, Norwich, CT in approximate positions, 41°31′14.64″N,

072°04′43.60″W (NAD 83).

6 Go 4 th Conne Fireworks	 tquot • Date: July 2, 2015 • Rain Date: July 3, 2015 • Time: 8:45 p.m. to 10:00 p.m. • Location: All waters of Great South Bay within 600 feet of the fireworks barge at approximate position, 40°43′30.03″N; 073°08′40.25″W (NAD 83).
7 Madison Fireworks Organization Fireworks	 Date: July 3, 2015 Rain Date: July 5, 2015 Time: 9:00 p.m. to 10:30 p.m. Location: All waters of Long Island Sound off Madison Beach, Madison, CT within 800 feet of the fireworks barge located in approximate position 41°16'09.04"N, 072°36'18.30"W (NAD 83).
8 City of Middletown Fireworks	 Date: July 3, 2015 Rain Date: July 5, 2015 Time: 9:00 p.m. to 10:30 p.m. Location: Waters of the Connecticut River, Middletown Harbor, Middletown, CT within 600 feet of the fireworks barge in approximate positions, 41°33'43"N, 072°38'32"W (NAD 83).
9 Fairfield Independence Celebration Fireworks	• Date: July 3, 2015

10	Haven Fireworks	 Date: July 3, 2015 Rain Date: July 5,2015 Time: 8:45 p.m. to 10:30 p.m. Location: All waters of New Haven Harbor off Bradley Point, West Haven, CT within 800 feet of the fireworks barge at approximate position, 41°15'07"N; 072°57'25"W (NAD 83).
11	Village of Port Jefferson Independence Day Celebration	 Date: July 4, 2015 Rain Date: July 5, 2015 Time: 8:30 p.m. to 10:30 p.m Location: All waters of Port Jefferson Harbor within 500 feet of the land launch at approximate position, 40°57′53.189″N; 073°03′09.72″W (NAD 83).
12	Shelter Island Fireworks	 Date: July 11, 2015 Rain Date: July 12, 2015 Time: 9:00 p.m. to 11:00 p.m. Location: All waters of Gardiner's Bay, Shelter Island, NY in approximate position, 41°04′27.60″N, 072°22′13.50″W (NAD 83).
13	Sebonack Golf Club Fireworks	 Date: July 31, 2015 Rain Date: August 1, 2015 Time: 8:30 p.m. to 10:30 p.m. Location: All waters of Peconic Bay, Southampton, NY within 600 feet of the fireworks barge at approximate position, 40°54′49.92″N; 072°27′39.28″W (NAD 83).

Dated: June 17, 2015.

E. J. Cubanski, III, Captain, U. S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2015-16748 Filed: 7/7/2015 08:45 am; Publication Date:

7/8/2015]